

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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(Pro Se Plaintiff)

GERARD O'NEILL,

08 CV 1689 (KMW)(RLE)

Plaintiff,

- against -

**NOTICE OF MOTION  
TO DISMISS THE COMPLAINT**

TITO HERNANDEZ,  
RICARDO MORALES, and  
NEW YORK CITY HOUSING AUTHORITY,

Defendants.

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**PLEASE TAKE NOTICE** that, upon the Complaint, the declaration of Jeffrey Niederhoffer in Support of Defendants' Motion to Dismiss the Complaint (and the exhibits attached thereto), dated April 8, 2008, the declaration of Michael Wyands in Support of Defendants' Motion to Dismiss the Complaint, dated April 10, 2008, and Defendants' Memorandum of Law in Support of Motion to Dismiss the Complaint, dated April 10, 2008, defendants Tino Hernandez (incorrectly identified in the complaint as "Tito" Hernandez), Ricardo Morales, and New York City Housing Authority will move this Court before the Honorable Kimba M. Wood, Chief United States District Judge, at the United States Courthouse for the Southern District of New York, 500 Pearl Street, New York, New York, on April 11, 2008, for an order pursuant to Rule 12(b) of the Federal Rules of Civil Procedure dismissing the Complaint filed in this action with prejudice on the ground that the complaint fails to state a cause of action and that no genuine issue of material fact exists and defendants are entitled to judgment as a matter of law, and granting such other relief as to this Court seems proper.

**PLEASE TAKE FURTHER NOTICE** that, in accordance with Local Rule 12.1, included with

the aforementioned papers, is a document entitled "Notice to Pro Se Litigant Who Opposes a Rule 12 Motion Supported by Matters Outside the Pleadings," dated April 10, 2008.

**PLEASE TAKE FURTHER NOTICE** that, in accordance with Southern District of New York Local Rule 6.1, referencing Rule 6(a) and (e) of the Federal Rules of Civil Procedure, a copy of any papers in opposition to this motion shall be served on defendants at the address stated below no later than ten (10) business days after service on plaintiff of defendants' motion papers, and a copy of any papers in reply in further support of the motion shall be served on plaintiff within five (5) business days after service on defendants of plaintiff's opposition papers.

Dated: New York, New York  
April 10, 2008

RICARDO ELIAS MORALES  
General Counsel  
New York City Housing Authority  
Attorney for Defendants  
250 Broadway, 9<sup>th</sup> Floor  
New York, New York 10007  
(212) 776-5259

By:   
Jeffrey Niederhoffer (JN 1942)

TO: GERARD O'NEILL  
Plaintiff Pro Se  
870 Columbus Avenue, Apt. # 3C  
New York, New York 10025

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Steven J. Rappaport,  
Jeffrey Niederhoffer,  
Of Counsel